

Jamie Rucker (JCR 6767)
National Labor Relations Board
Region 2
26 Federal Plaza, Room 3614
New York, New York 10278
(212)264-0300

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CELESTE J. MATTINA, Regional Director,
Region 2, National Labor Relations Board,
for and on Behalf of the NATIONAL
LABOR RELATIONS BOARD,

Petitioner,

-against-

08 Civ. 03332

SAIGON GRILL GOURMET RESTAURANT, INC. &
SAIGON SPICE, INC. d/b/a SAIGON GRILL
RESTAURANT,

J. Chin

Respondent.

ECF

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AFFIDAVIT

County of New York)
) SS
State of New York)

I, Chen Guo Jin, being duly sworn, do hereby affirm as follows:

1. I began working for Saigon Grill Restaurant ("Saigon Grill," "the Restaurant," or "the Employer") in about October 2001. I worked at the Employer's facility at 620 Amsterdam Ave. I remained employed there until March 3, 2007, when I and all the other delivery persons were fired by Simon Nget and Michelle Nget.
2. My work schedule at the time my employment ended was Monday through Sunday. Thursday and Friday I worked from 5:00 p.m. until 10:30 p.m.; on the other days I worked from 5:00 p.m. to

midnight. I was paid \$200 twice monthly. I also made about \$2800 per month in tips.

3. Before I was fired in March 2007, the Employer used to pay me an extra dollar for deliveries over thirteen blocks away, and an additional dollar for each additional fourteen blocks. I also used to receive five dollars from the Employer for deliveries to the East Side.

4. I returned to work on April 10, 2008. My work schedule is from 5:30 p.m. to 10:00 p.m., Wednesday through Monday. I am paid \$5.15 per hour. I am no longer paid extra for longer distance deliveries.

5. There are about eight other delivery people working for the Restaurant, in addition to me. Those include Li Qiang Lin, Jian Yu Chen, Yu Ming Yu, Su Jie Chen, and Quo Jing Liu. All five of those individuals were working for the Restaurant back in March 2007, when the Employer fired all its delivery workers. However, Su Jie Chen and Quo Jing Liu never joined Local 318 Restaurant Workers Union ("the Union") and neither of those two has participated in the wage and hour lawsuit that most of the former delivery workers brought against the Restaurant.

6. The other three or so delivery employees are new hires. I do not know their names.

7. The three new employees are working more hours than I do each week. They are already at work when I arrive, and a couple of them have told me that they begin work at around noon some days and at 4:00 p.m. on other days.

8. Quo Jing Liu has told me that he begins work at noon four days a week and at 4:00 p.m. another three days a week. My wife, who works as a packer at the Restaurant seven days a week, has told me that Quo Jing Liu works every day until midnight.

9. Each delivery order is entered into a computer system at the Restaurant. The computer record indicates the address of the customer, what the customer has ordered, the cost of the food ordered, and the time the order was made. Also, each delivery person is assigned a specific letter to identify him. My letter is "I." When I go to deliver an order, I look at the address the

person who took the order has written on the bag. I pull up the order I am going to deliver on the computer system (using that address from the bag) and enter my letter for that order. That identifies me as the person who delivered the specific order. That record does not get printed out on a piece of paper, however, but is simply recorded on the computer.


I have read this statement of 3 pages, including this one, I fully understand its contents, and I certify that it is true and correct to the best of my knowledge and belief.

Chen Guo Jin

Sworn to before me at
26 Federal Plaza, Room 3614
New York, New York this
21st day of April 2008

Jamie Rucker, Board Agent,
National Labor Relations Board

I am fluent in English and Mandarin Chinese, I have read the foregoing document, and I certify that it is a true and accurate translation of the attached affidavit of Chen Guo Jin, given April 21, 2008.



Su Yun Chen

宣誓书。

我，陈国金发誓而且特此肯定以下的内容。

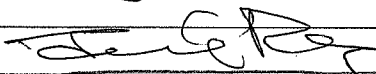
1. 我开始在 Saigon Grill Restaurant ("Saigon Grill," 或 "Restaurant," 或 "雇主") 里面上班是从 2001 年 10 月份。我是雇主的餐馆是在 620 Amsterdam Ave. 我一直在那里上班到 2007 年的 3 月份。那时候是我和全部其他送餐员被 Simon Nget 和 Michelle Nget 解雇。
2. 在还没有解雇之前，我的工作时间是星期一到星期天。星期四和星期五，我是从^{SC}下午 5 点上班到晚上 10 点半。其它^天的上班时间是下午 5 点到晚上 12 点。每个月我会~~收到工资~~^{SC}付两次工钱，每次共 200。我会赚到小费达书 2800 一个月。
3. 在 2007 年 3 月份，在我被解雇之前，雇主会多付 1 块钱给我如果那送餐会超过 13 条街。如果送餐再超 13 条街的话，雇主还会多付我 1 块钱。^{SC}雇主也会多给我 5 块钱如果我送餐到东区。
4. 我是在 2008 年 4 月份 10 号回去上班的。我的工作时间是从星期三到星期一，下午 5 点半到晚上 10 点。我每小时^{SC}是共 5.15。那些送^{SC}回去的餐，我不会被^{SC}付工钱。
5. 那里除了我之外，在餐馆里还有另外 8 个送餐的人。这些人包括 Li Qiang Lin, Jian Yu Chen, Yu Ming Yu, Su Jie Chen, 和 Quo Jing Liu。在雇主解雇全部的送餐员的时候，这五个送餐员都还在餐馆里面上班。那是 2007 年的 3 月份。但是 Su Jie Chen 和 Quo Jing Liu 没有加入地方 318 餐馆员工工会 ("工会")。他们也没有参加大部份旧的送餐员去告餐馆关于工资和工作时间。
6. ~~那些 3 个新请来的送餐员~~^{SC}，那另外 3 个送餐员是新请来的。我不知道她们的名字。
7. 那 5 个新请来的员工^{SC}上班的时间比我长。当我去上班的时候，他们都已经开始上班了。有一些告诉我^{SC}有些工作是从中午 12 点开始，有些工作是从下午 4 点开始。
8. Quo Jing Liu 有告诉我，在一个星期中有四天是从中午开始，然后其它 3 天是从^{SC}下午 4 点开始。我太太在餐馆里上班 7 天，她是打包的。她有告诉我 Quo Jing Liu 每天都上班到晚上 12 点。

9. 在餐馆里, 每一个送餐的单是打入电脑的。在电脑的记录里有顾客的地地, 顾客点的单, 点菜的价钱总数还有点菜的时间。还有, 每一个送餐的人有一个代号。我的代号是“J”。当我去送餐的时候, 我看那记单的人穿下的地地在袋子上。我我从电脑里根据袋子上的地地地单拿出来, 然后在那个单上按上我的代号。那个指出我是送这个餐的人但那些记录不会打印在一张纸上, 只是记录在电脑中。

我有读这三张(包括这张)的申明。我完全明白这里面的内容。我也确定从我所知道的和我所信的, 这是真是真实而且正确的。

CHEN GUO JIN
Chen Guo Jin

Sworn to before me at
26 Federal Plaza, Room 3614
New York, New York this
21st Day of April 2008.


Jamie Rucker, Board Agent,
National Labor Relations Board